

Virginia Conservation Briefing Book 2009



Moving Beyond
Instability to
Sustainability

Virginia's Conservation Priorities

Energy Efficiency

Investments in energy efficiency should be Virginia's first response to climate change. Efficiency protects consumers from volatile fuel prices and positions Virginia for future competitiveness.

- Establish an Energy Efficiency Resource Standard
- Create cost-recovery provisions for utility investments in efficiency and conservation
- Increase home weatherization assistance to low-income and elderly Virginians

Green Communities

In order to contain infrastructure costs and provide residents with real transportation options, Virginia must foster sustainable land use.

- Provide localities tools to control sprawling development and to promote green building
- Prioritize public investment in rail and mass transit

Natural Resource Protection

Virginia's commitment to protecting our farms, forests and rivers is paying off. Every year, state conservation programs turn away hundreds of willing landowners for lack of funds.

- Fully fund existing land conservation and agricultural BMP programs

Responsive Government

Just as Virginians deserve clean air and water, they deserve responsive, accountable government.

- Establish a bipartisan redistricting process for Virginia

conservation
priorities

1

2

3

4

Dear Virginia Lawmaker, **welcome** An Open Letter

December 2008

Thank you for taking the time to review the *2009 Virginia Conservation Briefing Book*. Virginia Conservation Network and the Virginia League of Conservation Voters Education Fund have co-published this annual compendium of white papers since 2004. But never before have the environmental policy priorities outlined in the *Briefing Book* been so relevant to the health and future of our Commonwealth. Rising energy costs, falling property values, questions about food security, and concerns over the state's unique vulnerability to climate change have brought Virginia to a crossroads.

The challenge confronting you is to navigate Virginia through a period of uncertainty and instability into an era of sustainability.

Embedded in our present fiscal crisis is an opportunity—an opportunity to re-examine policies that have gone unquestioned since the last century and to re-create policies that will make Virginia more prosperous and competitive in the 21st century.

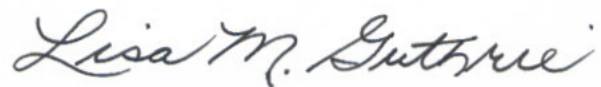
No longer can we allow our consumption of land and energy to outpace the growth of our population and economy. Instead, you must protect Virginians—especially the most vulnerable—from volatile fuel and energy prices by investing in proven efficiency measures, everything from shorter commutes to insulated attics. Far from compromising our quality of life, energy efficiency is now key to maintaining it.

You must follow through on longstanding commitments to restore our waterways and preserve our farmland. Virginia's first economic engines are all the more important today, contributing nearly \$80 billion to Virginia's economy annually; they also provide drinking water, nourishment, and even greenhouse gas reductions.

These are critical issues. Virginia is counting on you to lead. We stand ready to help.



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About the Briefing Book

welcome Our Common Agenda

Virginia Conservation Network

The voice of conservation

Representing more than 110 conservation and environmental organizations active throughout the Commonwealth, Virginia Conservation Network (VCN) is the nonprofit, non-partisan voice of conservation in Virginia.

The network sponsors educational conferences and workshops, including the annual Virginia Environmental Assembly.

VCN monitors state legislation relevant to the environment, keeping members and citizen activists informed through the *VCN E-News*, the website www.vcnva.org, and action alerts.

In addition, VCN is the Virginia's state affiliate of the National Wildlife Federation.

VCN White Papers and Workgroups

Bringing expertise to the issues

VCN workgroups provide open forums for experts to discuss conservation issues. In addition, the network's five workgroups—air and energy, water, land use and transportation, land conservation, and forestry—evaluate proposed legislation and identify policy solutions for the Commonwealth.

Through an open, deliberative process, these workgroups draft white papers, which are reviewed by VCN's legislative committee and board, then compiled in this, the annual *Conservation Briefing Book*.



Virginia League of Conservation Voters - Education Fund

Information for accountability

Established in 2001, the Virginia League of Conservation Voters - Education Fund (VALCV-EF) helps citizens and organizations better under-

stand conservation issues and more effectively participate in government and policy development. VALCV-EF works in three main areas: citizen education, public policy advocacy, and voter participation.

Public education is a critical step in the protection of Virginia's natural resources. Each year, VALCV-EF reach hundreds of concerned citizens and public officials with clear information on conservation priorities.

Get Involved

Legislative Contact Teams

VALCV-EF and VCN jointly administer the Legislative Contact Team (LCT) program,

Table of Contents

Welcome

Dear Virginia Lawmaker.	1
About the Briefing Book	2

Climate

Confronting Climate Change	4
--------------------------------------	---

Energy

Energy Efficiency	6
Home Weatherization	9
Offshore Drilling	11
Repeal of Coal Subsidies	14
Uranium Mining	17
Wind Power	20

Land

Land Conservation	23
-----------------------------	----

Transportation

PPTA Reform	26
Smart Growth	28
State Rail Investments	30
Transportation Funding	33

Water

Agricultural BMPs	36
Public Access to Resources	38

Citizens

Bipartisan Redistricting.	40
-----------------------------------	----

which mobilizes activists to serve as citizen lobbyists, promoting conservation issues to their state senator or delegate. To learn more or sign up, visit <http://citizen-networks.org/campaign/lct>.

Conservation Lobby Day

Each January, hundreds of concerned Virginians take part in Conservation Lobby Day.

They hear from lawmakers and environmental experts before meeting with legislators to express support for conservation priorities. Sponsored by VCN and the Garden Club of Virginia, the 2009 Conservation Lobby Day takes place on January 19 at Centenary United Methodist Church. Phone 804-644-0283 or visit www.vcnva.org for details and registration.

Confronting Climate Change

Rapid Progress Toward Sustainability

Statement of the Issue

Earth is experiencing unprecedented warming, and human activities are primarily responsible. Scientists warn that we must take immediate, effective action if we are to avoid passing a “tipping point”—a point of no return for avoiding the most extreme consequences of global warming. VCN positions on closely connected issues — land use, transportation, coal-fired power plants — provide detailed action plans. This paper focuses on the broader climate change issue as it impacts the Commonwealth.

The scientific consensus is overwhelming. Eight of the past ten years have been the warmest recorded globally. The International Panel on Climate Change and an extensive body of published, peer-reviewed science warn that climate change will lead to more frequent and severe droughts, floods, heat waves, and storms. Recent studies point to accelerated melting of the polar ice sheets that cover Greenland and parts of Antarctica. Scientists expect melting sea ice and warming oceans to inundate low-lying coastal areas around the globe.

Background

Impacts to Virginia

For Virginia, the impacts of climate change will accelerate substantially over the coming decades. From Appalachia to the Northern Neck climate change will significantly alter growing seasons, increase severe precipitation events,

and result in summertime droughts, severely threatening agriculture, Virginia’s largest industry. Forests are becoming increasingly pest ridden, and subject to wild fires. Unwanted invasive species will proliferate in the changing climate. Water and insect-borne infectious diseases will become more prevalent, leading to severe public health challenges.

Rising and warming waters and declining oxygen levels in Chesapeake Bay may eliminate oysters, destroy wetlands, and submerge many

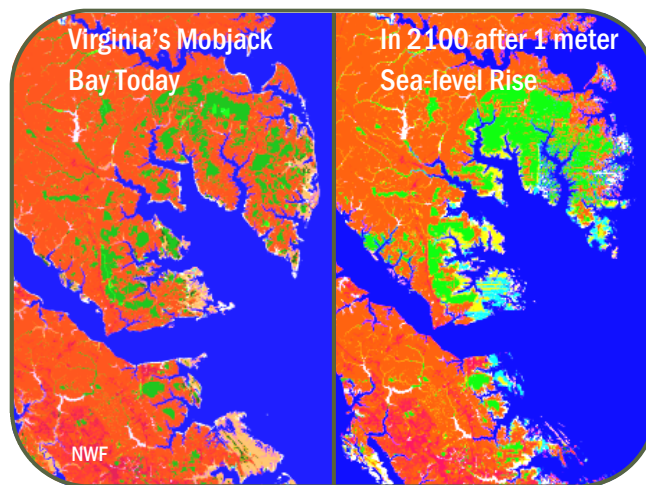
of the Bay’s historic islands and shorelines. Water levels in the Bay and along Virginia’s coastline are expected to rise by 2 to 5 feet this century. Much of the Hampton Roads region could be inundated.

Virginia Should Lead

It is imperative for the Commonwealth to take

immediate steps to combat climate change. Virginia is a serious contributor to climate change — greater than some individual countries — and its role is increasing. Dominion Virginia Power is aggressively pursuing a plan to operate a new conventional coal-fired power plant in Southwest Virginia. The plant under construction would not be capable of capturing the 5.4 million tons of heat-trapping carbon dioxide it would emit each year, equal to the annual carbon emissions from all of the private motorized vehicles in the greater Richmond Metropolitan Area.

Of course, electricity generation is only one part of the problem. Our buildings and trans-



Recommendations

New laws and regulations on heat-trapping gases are coming. Virginia's businesses need to prepare now to compete and prosper in a "carbon constrained" economy. We can help prepare them to do so, and move Virginia in the right direction by:

1. **Expanding effective energy efficiency programs** that will not only offset peak demand, but will also further reduce generation needs – the power plants that collectively run 24 hours a day, 365 days a year;
2. **Rejecting proposals for conventional-style, coal-fired power plants** that would significantly increase global warming emissions, thus exacerbating the Commonwealth's contribution to climate change;
3. **Promoting the responsible development of low- and no-carbon renewable energy sources;**
4. **Reforming Virginia's land use and transportation policies and practices** to promote green building in more compact and affordable communities, transit and other alternatives to driving, and more efficient, cleaner vehicles; and
5. **Encouraging greater investment in conserving lands** that can act as "carbon sinks."

portation account for approximately 75% of our energy use and greenhouse gas emissions. Sprawling suburban development and road-centered transportation policies force increased driving and fuel consumption, thus increasing carbon dioxide emissions. Virginia has had one of the largest increases in carbon dioxide emissions from cars and trucks in the nation. Sprawl also destroys farmlands, woodlands, and other open space that help store carbon.

Recent Policy Developments

On December 7, 2007, the first major federal initiative tackling climate change was reported out of the Senate Committee on the Environment and Public Works. "America's Climate Security Act," was co-authored by U.S. Senator John Warner. Although it failed to win the necessary votes to end debate on the Senate floor, its progress was nonetheless heralded as landmark. It is widely expected that the next president will sign some form of mandatory caps on carbon dioxide into law.

In Virginia, Governor Kaine created a Commission on Climate Change to develop recommendations on how to reduce the Commonwealth's contribution to global warming. The goal set for the Commission was far too weak. It seeks to return Virginia to our 2000 emission levels by the year 2025; other states, such as Florida, have set goals of returning to 1990 levels by 2025. Nevertheless, the recommendations of the Commission merit close attention.

Much more needs to be done to halt global warming. Local governments are taking action, including joining the Sierra Club's "Cool Cities" and "Cool Counties" programs and the Virginia Municipal League's "Go Green Virginia" initiative, demonstrating that progress can be made.

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Energy Efficiency

Technology to Power Tomorrow

Statement of the Issue

Energy efficiency is by far the least expensive and least polluting method for meeting our electricity needs. It must be our first fuel.

As carbon caps become increasingly likely, and with escalating prices of coal, oil, natural gas, and uranium, the cost of electricity generated from these conventional sources will continue to rise, as evidenced in 2008. Power companies have been pushing to build costly new coal-fired, natural gas, and nuclear power plants with new high-voltage transmission lines, all of which lead to new environmental hazards and higher electricity prices for consumers.

According to independent studies, Virginia ranks at the bottom of states in energy efficiency funding. This must change. Investments in energy efficiency are the most effective means of meeting future energy needs while stimulating local economies in the modernizing energy market. As Virginians, we must pursue opportunities for increasing the Commonwealth's efficient use of energy.

Background

Residential customers in Virginia pay a low \$0.089 per kWh for electricity—largely due to

rate caps. These caps are set to expire January 1, 2009, and the cost of electricity will certainly increase. Dominion Virginia Power has already received an 18% rate increase (the largest one-time increase since 1970), and with construction projects and rising fuel costs electricity is projected to rise to as much as \$0.12 per kWh. Meanwhile, independent groups such as the Western Governors' Association

say that growing electricity needs can be met with energy efficiency programs which cost only \$0.02 to \$0.03 per kWh to establish and administer. These findings have encouraged 22 states to develop publicly funded energy efficiency programs. For

example, in Texas, a number of utilities spent \$80 million altogether on efficiency programs in 2007, saving 167 MW in demand reduction and 427.9 GWh of annual energy consumption to exceed a goal established by the state legislature by 23%¹.

Our historically low energy costs have effectively hindered incentives to pursue energy efficiency. Without sufficient consumer education, assistance for up-front costs for energy improvements, and supportive public policies, Virginia will continue to depend on environmentally destructive, non-renewable re-



Recommendations

Virginia should first and foremost consider a set of legislative initiatives that mandate real, ambitious targets for meeting specified percentages of the state's energy needs through energy efficiency: setting an Energy Efficiency Resource Standard (EERS) of more than 15% by 2025.

Efficiency goals can be met through a combination of legislative, administrative and utility-administered programs and policies. Utility programs could be financed by capitalized cost recovery, and a plan in which savings from avoided generation costs are shared reasonably between the utility and the ratepayers. Such programs should: focus on ways to reduce both peak and baseload energy use; employ industry best practices; and reach across all sectors of the economy.

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sources and ignore energy efficiency initiatives that could save money for ratepayers in an increasingly tight economy.

A bill passed in the 2007 General Assembly Session (SB1416 Norment) established a State Goal that by 2022 Virginia should shave its electricity use by 10% of 2006 consumption levels. According to an analysis by the State

“Growing electricity needs can be met with energy efficiency programs which cost only 2 to 3 cents per kWh”

Corporation Commission staff, that meager target requires only a 0.5% annual reduction in the rate of growth. The American Council for an Energy Efficient Economy (ACEEE), after interviewing utilities, government officials, manufacturers, and citizen organizations, concluded that Virginia can nearly double that goal by 2025. We encourage decision makers to make good use of this report in the upcoming 2009 General Assembly Session, while considering a stronger energy policy for the state and ways to alleviate pressures of the current economic climate.

Specific Suggestions for Efficiency Policies and Strategies

Requirements or incentives for utility-based efficiency initiatives: reduce average “baseload” and peak consumption through a variety of substantive programs; curb peak demand through demand response programs to lessen the need for new power plant and transmission expansions. An Energy Efficiency Resource Standard (EERS) would set specific targets for meeting energy efficiency goals while rate-making “decoupling” policies (used in several states and adopted for gas utilities in Virginia) provide incentive to utilities for achieving greater efficiency.

Advance Building Energy Code: adopt the most recently approved International Energy Conservation Code (IECC), providing incentives for builders to exceed minimum standards.

Truth of Energy Use: require that information on energy performance and costs be provided to prospective buyers and renters of both new and existing buildings.

Educate a Workforce for Energy Efficiency Building and Technology: invest in training curriculums for energy-efficiency technologies at state institutions for higher education.

Incentives for Energy Efficient Technology: pass tax incentives and rebates for purchasing energy efficient appliances, including extension of the sales tax holiday; incentives should support research and development for more energy efficient technology.

Provide funding sources for energy efficiency programs: consider a Public Benefit Fund, which funds energy efficiency programs through a small charge on electric bills or through specified contributions from utilities.

Support increased funding for Weatherization Assistance Programs: improve energy efficiency for homes of low-income families and elderly citizens.¹

Incentives to retrofit existing buildings: affordable, available technology can greatly increase the energy efficiency of Virginia's housing stock and commercial real estate.

HVAC Quality Installation Standard: establish programs for HVAC retrofits and for emphasizing Manual J Quality Installation Standard training.

High Efficiency Lighting: all sectors, especially commercial, should either be required or given sufficient incentive to install the most energy efficient lighting technologies.

Siting for energy generation and transmission facilities: position electric generation closer to where it is being consumed.

Increased use of Combined Heat and Power: remove current disincentives to major institutions, large commercial and industrial establishments for development of CHP; create a streamlined process and equitable rates for those using CHP to access backup generation from the grid.

Energy Service Company Assessments: promote Energy Service Companies, or ESCO's to advise building owners on energy savings; programs should be directed to large commercial and industrial establishments in order to achieve maximum savings.

Distributed Generation: promote stronger integration of, and encouragement for, distributed, small-scale, clean power generation technologies to reduce line-loss, increase grid reliability, and reduce the need for new centralized generation and transmission capacity.

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¹ See accompanying white paper on Home Energy Assistance.

Home Weatherization

energy Helping Neighbors in Need

Statement of Issue

Low-income households in Virginia will face increasing hardships due to rising heating fuel costs, economic downturn and insufficient assistance agency resources. Moreover, many low-income consumers' homes lack efficiency measures that reduce energy consumption. An increase in state-generated funds is necessary to assertively meet the demand for direct energy assistance, residential weatherization projects and consumer energy efficiency education.

Increased residential weatherization, complimented with consumer energy education, will result in a reduction of electricity costs for the consumer, diminish the need for direct assistance and move the Commonwealth towards its stated goal of a 40% reduction of energy demand growth by 2017.

Background

Section 63.2-805 of the Virginia Code created the Home Energy Assistance Fund and establishes the responsibility of the State Department of Social Services (DSS) to administer federal funds, matching funds and donations

for heating fuel, crisis, cooling or weatherization assistance.

The Virginia Department of Housing and Community Development (VDHCD) Weatherization Assistance Program (WAP) is the recipient of 15% of the federal block grant of Low Income Heating Energy Assistance Program (LIHEAP) funding from DSS's federal allocation.



Federal funds supporting this crucial program in Virginia are derived from two main sources. The Department of Energy Weatherization Assistance Program (WAP) is estimated to contribute close to 43% of the total funds directly to VDHCD, while the LI-

HEAP will fund almost 57% of the 2007 allocation for the Commonwealth.

The 2007 Virginia Energy Plan, states "The Weatherization Assistance Program is most effective when it receives a consistent level of financial support from year to year." The estimated total of federal funds distributed to VDHCD for residential weatherization projects, emergency assistance and direct assistance in 2007 is \$9.9 million. That figure is 36% less than funds received in 2006. Thus there is an identified state service agency

Recommendations

Successful implementation of the Home Energy Assistance Program is dependent on supplementing federal funds with State-generated funding.

1. Inclusion of a \$0.25 flat rate monthly charge on residential consumers' electric utility bills could generate an additional \$9 million⁶ for the Home Energy Assistance Fund.
2. The additional fund allocation should be split with one-quarter (25%) towards supplementing direct fuel assistance requests and three-quarters (75%) to weatherization projects. The most effective way to reduce the future demand for direct energy assistance will be through an enhanced weatherization and energy conservation program.
3. To ensure that more Virginians are qualified to benefit from the Program, the income eligibility should be set at 80% of annual median income versus the current 150% of poverty level for Department of Energy WAP funds and 130% for LIHEAP funds.

Everyone pays. Everyone benefits.

The estimated total of federal funds distributed to VDHCD for residential weatherization projects, emergency assistance and direct assistance in 2007 is \$9.9 million . . . 36% less than funds received in 2006.

need for consistent, reliable funding that supplements the declining federal funds. Immediate past and current estimates for federal funding do not effectively meet consumer needs or allow for increased energy

efficiency activities, including residential weatherization and conservation education. Energy subsidies continue to offer a benefit that provides less than 25% of a recipient household's energy needs.

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Offshore Drilling

energy Weighing the Risks

Background

In 1981, Congress protected America's coasts, beaches, and marine ecosystems from the threats of oil and gas development by adopting the Outer Continental Shelf (OCS) Moratorium. That moratorium has prevented the leasing of America's coastal waters for fossil fuel development. In the nearly 30 years

since, Congress and successive presidents have recognized the value of America's coasts and have continued to ban new drilling off the Atlantic and Pacific coasts. While industry lobbyists tout the economic benefits of offshore drilling, the fact is that drilling and its

polluting infrastructure would jeopardize Virginia's booming coastal economy.

On October 1, 2008, the federal moratorium expired, and it will be up to the next President and U.S. Congress to determine if and where offshore drilling will be authorized.

Our Virginia coasts and marine waters provide the economic lifeblood for numerous tourism and fishing communities and military operations, generating billions of dollars and supporting millions of jobs. Although future federal offshore drilling policy is unsettled, the risk to Virginia's coastal economy from offshore drilling outweighs perceived benefits.



Statement of Issues

The Risk to Virginia's coastal economy

There is risk to Virginia's tourism industry which annually brings in over \$16.5 billion and supplies 206,900 jobs. One large spill that hits beaches during the tourism season can have major economic repercussions.

Additionally, offshore oil and gas operations have detrimental effects onshore. These operations require refineries and other processing facilities, miles of pipelines, roads, storage facilities, tankers to be built near offshore rigs, threatening our beaches, wetlands, and coastal areas.

Virginia's fishing industry in 2005 generated \$1.23 billion in output sales, \$717.4 million in value-added income, and 13,015 jobs. If commercial fishing is damaged by chronic or catastrophic offshore spills and pollution, the economic damage will be large.

Offshore drilling, including exploration for natural gas, results in an average of 180,000 gallons per well of waste mud containing toxic metals such as mercury, arsenic and lead dumped into surrounding waters every day, putting additional strain on the already troubled Chesapeake Bay.

Current drilling projects in the Gulf of

Recommendations

We cannot drill our way out of this energy crisis. The United States has just 3% of the world's oil reserves yet we consume 25% of it.

Drilling prolongs and expands dependence on fossil fuels, increasing global warming pollution and sea level rise. With sea level rise projected at as much as 2-5 feet over the next century and the significant costs associated with addressing expected flooding and inundation of our low lying coastal areas, Virginia needs to explore how we will meet our energy needs while decreasing our reliance on fossil fuels.

We urge the Administration and the General Assembly to support a continued moratorium on offshore drilling and to oppose efforts to authorize drilling off the Virginian coast.

Mexico have destroyed more wetlands than exist between New Jersey and Maine. Coastal wetlands absorb storm energy, thereby reducing hurricane costs. They also provide habitats supporting diverse wildlife and aquatic life that in turn supports valuable game fish. Moreover, wetlands also help regulate sediment flow and filter pollutants.

The risk associated with offshore exploration/drilling would not only affect not Virginia, but also states far beyond Virginia's coast -- affecting the environment of Maryland, North Carolina, Delaware and New Jersey. Governors in these states continue to oppose offshore drilling. Offshore drilling, and its impacts, cannot be enacted on a one-state-only basis.

Virginia is likely to become increasingly prone to powerful hurricanes, which pose potential risk to the integrity of offshore drilling infrastructure. While Virginia is not prone to the same scale of hurricanes as hit the Gulf Coast, it should be noted that the U.S. Coast Guard reported that during Hurricanes Katrina and Rita roughly 9 million gallons of oil were spilled. The U.S. Mineral Management Services reported that as a result of Hurricanes Katrina and Rita, 113 platforms

were destroyed and 457 pipelines were damaged.

“Four billion barrels of oil are predicted off the Atlantic coast. This number equates to a mere 200-day supply, based on current consumer consumption of 20 million barrels per day. Federal estimates indicate that it will be decades before this supply comes online.”

The U.S. Navy maintains its opposition to offshore drilling. To protect and defend our great country, they must have unfettered access to the Virginia CAPES Operating Area. These offshore waters are an area where there are daily military drops of missiles, submarines, ships firing guns, and decades of live ordnance existent. According to a recently released Draft EIS, the Navy plans to increase its activities in this area. NASA also maintains its opposition to the MMS plan off Virginia.

Worth the Risk?

Four billion barrels of oil are predicted off the Atlantic coast. This number equates to a mere 200-day (6 months) supply, based on current consumer consumption of 20 million barrels per day. Federal estimates indicate that it will be decades before this supply comes online and 2030 before it may have any effect on gas prices.

Contrary to its legislative intent and standing alone on the East Coast, Virginia

continues to be enrolled in the Federal program to sell off leasing rights for both oil and gas the moment the moratorium on offshore drilling is lifted. There is no leasing scenario or regulatory framework that would allow development of natural gas and not simultaneously promote the development of offshore oil. Historically, there have been no instances where the industry has not removed both gas and oil before capping a productive well.

Meanwhile, four times more gas and oil is available in areas already open to drilling than in waters protected by the moratorium, and the industry is using only a fraction (18-20%) of what it already has access to. These unused areas could produce an additional 4.8 million barrels of oil and 44.7 billion cubic feet of natural gas each day, nearly double current domestic oil production.

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Repeal of Coal Subsidies

energy Taxpayers Deserve Better

Statement of the Issue

The mining and burning of coal poses a serious threat to Virginia's environment. Surface mining—including the extremely destructive practice of mountaintop removal—is destroying the landscape, waterways, quality of life, and economic viability of Southwest Virginia, the most biologically rich area of the Commonwealth.

And yet the state actually spends tens of millions of taxpayer dollars annually to subsidize the mining and consumption of coal—including mountain removal coal mining. With coal mining companies enjoying record high prices in 2008, and with the Commonwealth facing a severe budget crisis, it is time to end these giveaways.

Background

The Subsidies

Two Virginia laws in particular provide major tax breaks for coal. First, Virginia Code section 58.1-433.1, provides a credit of \$3 per ton of coal mined in Virginia purchased and consumed by electric utilities. In 2006, the most recent year for which complete data is available, Virginia electric utilities purchased 8,802,492 tons of coal mined in the state. The

second tax break, in Virginia Code section 58.1-439.2, provides a tax credit for the mining of coal in Virginia, based on the thickness of the coal seam and the method. It provides a credit for surface-mined coal of 40 cents per ton. For coal mined using underground methods, it provides a credit of \$2 per ton for thin seam coal and \$1 per ton for thick seam coal. Credit under this statute does not apply

to coal for which a credit under section 58.1-433.1 is received.

Impacts of Coal Mining

Strip mining has a severe impact on Southwest Virginia. About 40% of the coal mined in Virginia is from strip mines, in which coal seams are accessed by removing the

vegetation, top soil, and rock above them. This eliminates native forest, creating a barren landscape unsuitable for its regrowth, and contaminates waterways with toxic runoff and sediment. More than 133,000 acres in Southwest Virginia have already been strip mined. In Wise County, 25% of the land area has been strip mined. Moreover, mountaintop removal mining, in which the tops of ridges are blown off to access the coal seams, is widespread in Virginia, accounting for a large portion of the surface-mined area.



Recommendations

The Virginia General Assembly should repeal the tens of millions of dollars in tax credits provided in sections 58.1-433.1 and 58.1-439.2 for the mining and consumption of coal. The credits go to companies already making record profits, subsidize extreme environmental destruction, and impede the development of clean energy solutions by giving coal an unfair economic advantage. This money could be left in taxpayers' pockets, devoted to clean energy investments and incentives, or used to alleviate poverty in Southwest Virginia.

Mountaintop removal eliminates the peaks of mountains, reducing their elevation by hundreds of feet and replacing the mountaintops and their native vegetation with an unsightly and biologically unproductive landscape. The rubble created by this destruction is pushed into the neighboring valleys, creating what the industry refers to as “valley fills.” The headwater streams running through these valleys are buried. Across central and southern Appalachia, over 1,200 miles of streams have been destroyed by mountaintop removal mining, being either

“About 40% of the coal mined in Virginia is from strip mines . . . This eliminates native forest, creating a barren landscape unsuitable for its regrowth, and contaminates waterways with toxic runoff and sediment. More than 133,000 acres in Southwest Virginia have already been strip mined.”

buried in rubble or mined-over, and 480 mountains have been blown up.

This destruction of the landscape has a profound effect on wildlife. The Appalachian

Plateau, including Southwest Virginia, is one of the most biologically diverse regions in the temperate world. The permanent loss of forest—hundreds of thousands of acres across central Appalachia—and the fragmentation of an area several times this size, represent a disastrous loss of habitat. An analysis based on wildlife surveys conducted in West Virginia and Kentucky showed that 135 rare, threatened and endangered species may have been directly impacted by mountaintop removal operations.

While habitat losses on the mine and valley fill sites pose the most obvious threat to wildlife, contamination of downstream waters from valley fills and mine runoff has profound impacts on aquatic life. The affected drainages are among the most biologically diverse freshwater systems in the world. Selenium, one of dozens of toxic metals leached into streams from valley fills, is found downstream of mountaintop removal sites in concentrations far in excess of EPA standards, correlating with severe deformities in fish. One study showed that mayflies, which account for about half of insects in the Appalachian Plateau's headwater streams, had completely disappeared downstream from some valley fills, a loss with potentially catastrophic consequences for the entire down-

stream food web and the integrity of entire river systems.

Residents of the coalfields are profoundly affected as well. They must endure frequent blasting, contaminated drinking water, and severe flooding, in addition to the destruction of the mountains and creeks that have been integral to their lives. Residents of heavily mined counties also suffer from dramatically elevated occurrences of serious health problems—such as heart, lung, and kidney disease—as compared to residents of other counties in Appalachia.

Moreover, far from being an economic boon, coal mining is closely associated with economic distress. A comparison of regions within Appalachia by the Appalachian Regional Commission found that “current and persistent economic distress within the Central Appalachian Region has been associated with employment in the mining industry, particularly coal mining.” Virginia’s Wise County exemplifies this connection. Since 1980, income in Wise County has declined from 96% to 69% of the national average, and there has been a 62% decline in mining industry jobs—despite an increase in coal production during the same timeframe. On the other hand, the development of clean energy resources in this area would provide high quality jobs that would be sustained over time.

Investment Choices for Virginia’s Future

When these subsidies were last amended by the General Assembly in 2006, Central Appalachian coal traded at \$60 per ton. Since then the price of coal skyrocketed to \$140 per ton in October 2008 and was still above \$110 per ton as of mid-November 2008, according to statistics maintained by the U.S. Department of Energy’s Energy Information Administration. With billions of dollars in increased revenue, the coal mining industry does not need a government handout to stay afloat.

In fact, in these tight economic times, it is critical that the General Assembly reassess how it spends limited taxpayer money. Electricity generated from coal is far more expensive than reducing power demands through energy efficiency initiatives. Renewable energy sources such as wind and solar are not subject to coal’s sharply escalating fuel prices. Moreover, massive subsidies for coal exacerbate Virginia’s severe air pollution problems and the challenge of reducing greenhouse gas emissions. It is time to end subsidies that give coal an artificial advantage over clean energy.

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Uranium Mining

energy A Statewide Concern

Statement of Issue

As noted in draft legislation circulated by mining proponents in 2007, “uranium mining in the Western United States in the last century created a shameful legacy in terms of human and environmental devastation.” Virginia should take no action to initiate or sanction a study of uranium mining until the proponents of mining provide reviewable information demonstrating that mining and milling have been safely undertaken in five places with climate, geology, and population density similar to Virginia. This demonstration should be made for each of the three mining methods that could come to Virginia.

Only after such demonstration should the General Assembly initiate a study of whether uranium mining and milling, transportation, and mine and mill reclamation can be undertaken in a manner that will safeguard Virginia’s environment, natural and historic resources, agricultural lands, and the health and well-being of its citizens.

Background

In 1981, because of uranium exploration occurring throughout the state and the leasing of thousands of acres of land for uranium mining along the Piedmont from Pittsylvania County to Fauquier County, the Virginia General Assembly began studying the potential impacts of uranium mining.

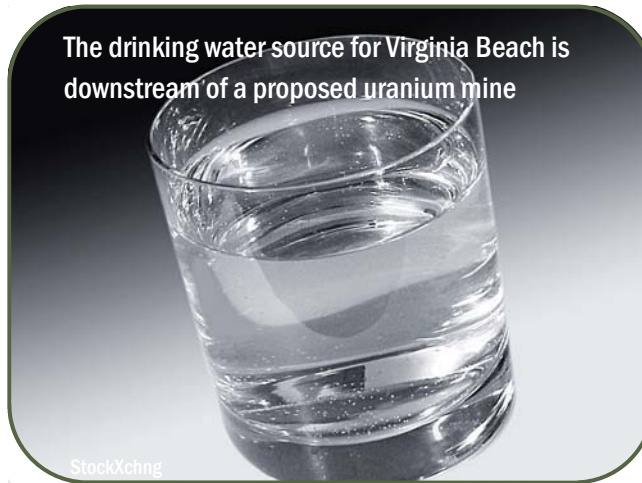
The 1982 General Assembly passed, and Governor Charles S. Robb signed into law, a moratorium on uranium mining pending completion of the legislature’s studies. The 1983 General Assembly extended the moratorium indefinitely. In 1985, the legislatively established Uranium Subcommittee and Uranium Administrative Group (“US/UAG”) recommended that the moratorium could be lifted if nine essential recommendations were enacted

into law. Among the essential recommendations were that the state’s non-degradation standards for water be clearly made applicable to uranium development and that no processed wastewater be discharged to surface waters from a mill or tailings facility.

Two members dissented, arguing that the US/UAG’s studies had not

demonstrated that uranium mining could be done safely in Virginia. One dissent noted: “The experimental nature of the uranium industry in Virginia’s wet climate and the environmental problems from radioactive tailings disposal in the West have caused the General Assembly to be justifiably cautious in approving the industry.” Indeed, three sessions of the General Assembly considered the issue and decided that uranium mining was not right for Virginia. Continuing, the dissent noted: “Legislation called for an assessment of risks and benefits. The US/UAG has had no actual experience to evaluate. French uranium is cited by the industry as similar, but no impacts data were produced on this situation. Rather, the

The drinking water source for Virginia Beach is downstream of a proposed uranium mine



Recommendations

Uranium mines in conditions comparable to Virginia must be identified before moving ahead

Virtually all uranium mining in the U.S. has occurred in sparsely populated regions of the arid West. Lifting the Virginia moratorium and mining in more densely populated, higher-precipitation region would be an experiment and with potential dire consequences for Virginia. Colorado has experience with uranium mining. Because of its experience, in 2007 Colorado adopted House Bill 1161 that requires any prospective applicant for an *in situ* leach mine to demonstrate five successful mines under similar conditions before a mining permit may be issued. Virginia should profit from Colorado's experience and actions and take no action to initiate or sanction a study of uranium mining until the proponents of mining provide reviewable information demonstrating that mining and milling have been undertaken in five places with climate, geology, and population density similar to Virginia. Only with such data can a meaningful study proceed.

UTF and US/UAG reports and conclusions about costs, benefits and risks of a uranium industry are based upon consultants predictions using mathematical models and other techniques to speculate about future effects of one mine and one mill...No estimates were made of impacts of a statewide industry."

There was no actual experience to evaluate, only educated speculation. A recent study of hard rock mining shows that educated speculation about hard rock mines is frequently wrong. Researchers (Maest, A.S., Kuipers, J.R., *Predicting Water Quality Problems at Hardrock Mines: A Failure of Science, Oversight, and Good Practice, 2006*) evaluated twenty-five hard rock mines for which environmental impact statements and subsequent water monitoring data were available. The study showed that nineteen of the EISs incorrectly predicted adverse water quality impacts that resulted from the mining - a 76% failure rate.

After extensive hearings on the US/UAG report and the legislation proposed by the Coal and Energy Commission, the 1985 General Assembly declined to lift the uranium mining moratorium. It remains in place today, although exploration is still allowed.

On behalf of Virginia Uranium, Inc., legislation (SB 525) was unsuccessfully introduced during the 2008 Session of the Virginia General Assembly to create a study on the safety of uranium

mining in Virginia. Virginia Uranium, Inc. is interested in mining uranium at Coles Hill in Pittsylvania County.

Methods of Mining

There are three types of uranium mining in the U.S.: above-ground (open pit), underground, and *in situ* leaching (ISL). The degree of risk to air quality, water quality, local populations, the environment, and worker safety varies depending on the type of mining. All three methods of mining would have to be thoroughly evaluated on a statewide basis prior to any reconsideration of the ban.

The two types of conventional mining, open pit and underground mining, involve milling - grinding mined ore to an even, sandy consistency, and leaching uranium from the ore using either acid or alkaline chemical solutions. Because the ratio of usable uranium to mined rock can be as low as 1/2 pound per ton, conventional mining creates vast amounts of waste containing low levels of radiation, heavy metals, and other pollutants. Mining waste principally consists of waste rock and tailings. The waste rock typically is stored adjacent to the mine and exposure to the elements causes weathering which results in leaching of radioactive elements, metals and other contaminants into surface and ground water. Dry waste piles must be managed to prevent wind-blown spread of radioactive materials during operations. Tailings

are typically placed as a liquid/sand slurry in massive tailings ponds. These tailings ponds can leak contaminants into surface and underground waters and pose the risk of catastrophic failure. Both the waste rock and tailings features as well as the mines from which the materials are extracted present significant challenges in terms of reclamation and will likely require maintenance in perpetuity.

Conventional mining also can intercept and convey surface water and groundwater. When excavated below the water table, mine voids serve as low-pressure sinks inducing groundwater to move to the openings from the surrounding area. The result is the dewatering of nearby land. The extent and severity of the impact on the local surface water and groundwater systems depends on the depth of the mine, the topographic and hydrogeologic setting, and the hydrologic characteristics of the adjacent strata.

ISL is a newer process that enables production of uranium product from underground sources without conventional mining. An acid chemical solution is injected underground to leach the uranium from the rock. The resulting mixture is then pumped out to extract the uranium. After the ISL operation is complete, in theory, the aquifer is supposed to be flushed to remove or dilute pollution. This type of process has never actually restored an aquifer to its original condition, so ISL operations pose a significant risk of ongoing ground and surface water contamination. An additional risk is posed by the large amounts of liquid ISL waste which are impounded, posing risks of water pollution and impoundment failure similar to those with conventional operations.

Dangers of Uranium Mining

Uranium ore, waste, and tailings are a toxic mixture of numerous, hazardous materials.

Natural uranium consists of three isotopes: uranium-238, uranium-235, and uranium-234. Uranium isotopes are radioactive. The nuclei of radioactive elements are unstable, meaning they are transformed into other elements, typically by emitting particles (and sometimes by absorbing particles). This process, known as radioactive decay, generally results in the emission of alpha or

beta particles from the nucleus. It is often also accompanied by emission of gamma radiation, which is electromagnetic radiation, like X-rays. These three kinds of radiation have very different properties in some respects but are all ionizing radiation—each is energetic enough to break chemical bonds, thereby possessing the ability to damage or destroy living cells.

The most serious health hazard associated with uranium mining is lung cancer due to inhaling uranium decay products. The radioactive materials, notably radium-226, and heavy metals (e.g., manganese and molybdenum) contained in uranium mill tailings can also leach into groundwater. Near tailings piles, water samples have shown levels of some contaminants at hundreds of times the government's acceptable level for drinking water.

Radon-222 gas emanates from tailings piles and has a half life of 3.8 days. This may seem short, but due to the continuous production of radon from the decay of radium-226, which has a half life of 1600 years, radon presents a long term hazard. Further, because the parent product of radium-226, thorium-230 (with a half life of 80,000 years), is also present, there is continuous production of radium-226. Radon gas can travel a thousand miles in just a few days, with a light breeze. As it travels low to the ground (it is much heavier than air) it deposits its “daughters”—solid radioactive fallout—on the vegetation, soil and water below; the resulting radioactive materials enter the food chain, ending up in fruits and berries, the flesh of fish and animals, and ultimately, in the bodies of human beings.

Additional health and environmental dangers are posed by the heavy metals and other contaminants frequently associated with uranium.

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Wind Power

A Balanced Approach to Siting Facilities

Statement of the Issue

Wind energy is a carbon-free, homegrown renewable energy option of great potential in Virginia. Wind energy projects are increasing in number around the country, in part because of tax incentives and other subsidies provided for wind energy projects. Advocates for clean energy, greenhouse gas reductions, and energy security embrace wind energy since it is a renewable domestic energy source.

Virginia Conservation Network supports the use of both small scale and industrial wind to meet future energy needs of the Commonwealth, but recognizes that industrial wind projects are largely unregulated. No federal or state siting permit is currently required for these industrial wind facilities on land and the permitting procedure for offshore projects is now in development by the federal Mineral Management Service. Current reviews conducted for projects occurring on federal lands may be inadequate to protect significant resources in the Commonwealth. Virginia needs to develop an effective state review and approval process to allow for projects that eliminate and/or significantly reduce impacts of industrial wind projects to wildlife, contiguous forested areas, and other natural, cultural, and historic resources of the Commonwealth.

This process should give consideration to

cumulative benefits and adverse impacts of proposed industrial wind projects. Having such a review process in place for all industrial wind projects will allow Virginia to identify areas where projects are suitable, encouraging development of renewable energy while ensuring that Virginia's natural and cultural resources are not destroyed in the process.

Background



All forms of energy create environmental impacts. Though much less destructive than traditional sources of fossil fuel generation, industrial wind turbines are very large structures that may be hundreds of feet tall. Developers of wind energy need sites where conditions are favorable: often

along mountainous ridgetops and offshore locations. In Virginia, these locations are sometimes areas of great ecological sensitivity, provide the Commonwealth's most spectacular scenery and recreational opportunities, and may include cultural and historic resources of great value. Current projects being discussed are as tall as 500 feet and if improperly sited, could negatively impact wildlife populations, such as birds and bats.

In addition to addressing onshore siting concerns, it will be critical to develop appropriate review of offshore wind projects. Coastal wind resources may provide the greatest potential for Virginia. Consequently, a review process will be

Recommendations

- 1. Virginia should support the location of small-scale distributed wind projects** by developing and more importantly funding incentives such as the Solar and Wind Energy System Acquisition Grant Program.
- 2. Virginia should form a technical advisory committee that would review all evidence and make recommendations for a state siting and permitting process for industrial wind projects.** This process should seek to eliminate or reduce impacts on wildlife, contiguous forest habitat, national and state parks, national forests, historic sites and other cultural and scenic resources, while recognizing the importance of utilizing the state's wind resources to help replace fossil fuel use in the state. Additional infrastructure (associated transmission lines, etc.) should be considered in this process. This process should include representatives from any affected state agency as well as the regulated community and interested public. This committee should ensure that monitoring of impacts be conducted on an ongoing basis.
- 3. Virginia should pursue legislative approaches that ensure expedient development of clean renewable energy sources.** One option would be a mandatory Renewable Portfolio Standard. Such legislation should address the siting of wind facilities in order to ensure adequate protection of wildlife, contiguous forest habitat, national and state parks, national forests, historic sites, and other cultural and scenic resources, and these siting standards shall be in place prior to implementation.
- 4. Industrial wind projects must continue to be subject to local approval through applicable zoning and land use processes.** The state should develop guidance for local governments and encourage planning for possible wind projects in comprehensive plans and applicable ordinances.

necessary to protect the value of the Chesapeake Bay and Virginia's coastal resources in a way that encourages industrial wind projects where they can be built without harm to the ecology and character of these areas.

As Virginia encourages the development of renewable energy to address issues of climate change and to transition to cleaner forms of energy, the need to protect the remarkable natural, scenic, historic, and cultural resources that shape our quality of life is widely recognized. Valuable research has been done which can assist Virginia in developing a process to responsibly accommodate industrial wind development.

In recent years, a Landscape Classification System to encourage siting of industrial projects was developed by a working group, which included conservationists and scientists, under

the auspices of the Virginia Wind Energy Collaborative (VWEC), an affiliation of wind energy advocates. The VWEC had the goal of developing a report in consultation with agency and organizational representatives. Two separate reports were published (www.vawind.org/Assets/Docs/LCS-100805.pdf; http://vwec.cisat.jmu.edu/gis_lcs.htm). Considered together, these two reports provide valuable research and guidance that will aid and expedite the development of a Virginia review process. Under the Virginia Energy Policy Act of 2006, the considerations of the Landscape Classification System have been expanded to consider natural, cultural, and historic resources. This is in an effort to provide a Virginia Renewable Site Scoring System and is being conducted by James Madison University under contract by

the Department of Mines Minerals and Energy. But current efforts have failed to involve important stakeholders and will likely overlook some general concerns and specific sensitive resources.

“Coastal wind resources may provide the greatest potential for Virginia. Consequently, a review process will be necessary . . . that encourages industrial wind projects where they can be built without harm to the ecology and character of these areas.”

Given the potential environmental benefits of new wind development proposals, it is necessary to have an effective process for locating industrial wind projects in places with sufficient wind while protecting ecologically sensitive, scenic, and historic resources. VCN has reviewed many policies that could assist the Commonwealth in its pursuit of a clean energy future and share the following examples as ones inclusive of the issues that must be addressed:

1) The U.S. Fish and Wildlife Service has developed interim guidelines for onshore wind generation projects: www.fws.gov/habitatconservation/wind.pdf. The recommendations within this document appear to address many concerns in likely wind projects.

2) In addition, the National Academy of Sciences established an expert committee to carry out a scientific study of the environmental impacts of wind-energy projects, focusing on the Mid-Atlantic Highlands as an example. The study considered adverse and beneficial effects and developed an analytical framework for evaluating those effects that can inform siting decisions and provide guidance on how to reduce or mitigate negative environmental impacts. The report is available at: www.nap.edu/openbook.php?isbn=0309108349.

3) The national Sierra Club also has a balanced approach to considering industrial wind projects and has developed a wind siting advisory policy: www.sierraclub.org/policy/conservation/wind_siting.asp.

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Land Conservation land

Proven Programs

Statement of the Issue

Successful land conservation requires action and initiative at all levels that is geared toward the protection of a diversity of lands. State agencies, local communities, and private individual need the right tools to protect working farms and forests, scenic landscapes, natural areas, wildlife habitat and game lands, historic resources, and parks and recreational areas for present and future generations of Virginians. Virginia currently has variety of programs and approaches that deliver lasting results across the Commonwealth: the Virginia Land Preservation Tax Credit program, state matching funds for local purchase of development rights (PDR) programs through the VDACS Office of Farmland Preservation, and competitively awarded land preservation funds from the Virginia Land Conservation Foundation.

Without ***significant and reliable funding*** for these programs, however, Virginia will not achieve conservation results at a large enough scale to:

- maintain the quality of life that attracts businesses and tourists to the Commonwealth,
- conserve the land base which supports our two largest industries – forestry and agriculture,
- meet its commitment to restore the Chesapeake Bay,

- access available federal and private conservation dollars that require matching funds,
- and ensure that future generations can enjoy the beautiful, diverse Virginia that we know today.

Background

If current trends continue, over the next 40 years Virginia will lose as many acres of



farms, forests, and natural lands to development as have been lost in total in the 400 years since the Commonwealth was settled by Europeans. The rate we are losing rural land is accelerating; we are now losing land at

more than two times our rate of population growth. Vitally important prime farmland is being consumed at the greatest rate, with forestland loss close behind. In addition, we are regularly losing irreplaceable, critical wildlife habitat, important historic sites, and economically valuable scenic resources.

Virginians have said repeatedly in surveys, polls, and at the ballot box that they are willing to invest in the protection of open space. Unfortunately, the Commonwealth has failed to consistently provide adequate funding to protect our most important natural, cultural, and historic resources for the benefit of future generations.

Recommendations

Virginia needs to make a substantial financial commitment to land conservation by:

- Continuing the Land Preservation Tax Credit Program in its current form. **1**
- Maintaining current funding levels for the PDR and VLCF programs for the 2009-2010 biennium.
- In coming years, identifying and creating stable funding for VLCF and the state PDR program at \$30 million annually per program. **2**

Land Preservation Tax Credit

The Land Preservation Tax Credit is Virginia's most successful, dependable land conservation funding program and is one of the best land conservation tax incentive programs in the nation. This program is an efficient and effective way to encourage private voluntary land conservation by providing taxpayers who make gifts of land or conservation easements tax credits equal to 40% of the value of their donated interest. Landowners with lower incomes who are unable to use all of their tax credits may transfer unused but allowable credits to other taxpayers. Before the implementation of the tax credit, just 19 counties had more than 1,000 acres of land protected by conservation easements. Just eight years after implementing this program, that number has rocketed to 58 counties with more than 1,000 acres of land protected by conservation easement.

An examination of the donated conservation easements demonstrates that the LPTC program is protecting critically important lands across the Commonwealth. For example, an analysis of the more than 400,000 acres of conservation easements held by the Virginia Outdoors Foundation (the largest easement holder in the Commonwealth) shows that:

- 360,000 acres (90%) are within or partially within areas identified by the Department of Conservation and Recreation as ecological core habitat;
- 160,000 acres (40%) are protecting nationally

identified prime agricultural soils;

- Over 400,000 acres (85%) are within the Chesapeake Bay watershed and add to the Commonwealth's commitments under the Chesapeake Bay 2000 Agreement;
- 112,000 acres (28%) are protecting visual corridors along state designated Scenic Roads; and
- over 70,000 acres of these protected lands are within state and nationally designated historic districts.

This program is an efficient and effective way for Virginia to encourage private landowners to conserve the most important lands in the Commonwealth. The land conservation community strongly recommends that the General Assembly make no changes to this important land conservation tool.

Local purchase of development rights programs

In 2007, Virginia made a commitment to working farms and forestland through an investment of \$4.25 million for farmland preservation at the local level. Localities responded to the state investment by pledging 10 times the amount in matching funds, totaling \$45 million. The matching PDR program requires counties to match dollar for dollar the amount that is granted to them by the state. Virginia is receiving at least a 50% return on its investment.

The original \$4.25 million investment by the Commonwealth will preserve farmland in 14 localities in Virginia. Since these matching funds

became available, 21 localities have adopted local PDR programs. There are now 21 localities that realize the importance of preserving working farmland in Virginia. In order for these localities to keep the PDR programs strong, reliable and consistent funding is needed to maximize the potential of this conservation partnership.

In 2005, the Virginia Farmland Preservation Taskforce set a goal of establishing 30 PDR programs in Virginia by 2010. Virginia is well on the way to meeting that goal and localities need a financial commitment by the state in order to keep the programs running. The Taskforce also set a funding goal of \$30 million per year in farmland preservation funding. For the 2009-2010 biennium, Virginia invested \$1.5 million in matching funds for local purchase of development rights programs. The Commonwealth needs to support its partnership with localities to conserve working farm and forest land through continued consistent funding of local purchase of development rights programs. It is critical that in these difficult financial times, both years of funding remain in place in order to continue to spur local investment in PDR programs.

Over the long term, and in order to meet program demand and best preserve Virginia's incomparable natural resources, the Commonwealth should invest \$30 million annually in the Office of Farmland Preservation's state PDR program.

Virginia Land Conservation Foundation

The Virginia Land Conservation Foundation (VLCF) provides state matching grants for the preservation of various categories of special lands in the Commonwealth. These grants are awarded on a competitive basis for the protection of open spaces and parks, natural areas, historic areas, and farmland and forest preservation.

Like the Office of Farmland Preservation, this highly effective program leverages local and federal investment for natural resource conservation by paying no more than 50% of the cost of worthy projects. Grant applications to the VLCF program have consistently far exceeded available funds. Since FY 2000 over \$82 million of grants have been requested of the program while only

\$28 million have been available. This represents a lost opportunity for the Commonwealth to capture more than \$50 million in federal, local, and private matching dollars for land conservation.

VLCF was allocated a total of \$4 million over the 2009-2010 biennium, and it is critical that this funding remain in place. However, in order to meet program demand and best preserve Virginia's incomparable natural resources, the Commonwealth should move to invest \$30 million annually in the Virginia Land Conservation Foundation's grant program in coming years.

Bond Funding

While many funding alternatives exist for funding PDR programs and VLCF, one option is to authorize the issuance of new bonds to support these programs. Funding for land conservation represents a long lasting public investment that benefits current and future residents. Bonding ensures that current and future residents share the cost of providing those benefits. A series of bonds over a ten year period would provide reliable funding and demonstrate the Commonwealth's commitment to maximizing potential partnerships with localities and other conservation organizations.

In recent years, the Virginia Public Building Authority has been the state entity issuing bonds for land conservation undertaken by the Commonwealth. With nominal amendments to the Virginia Public Building Authority Act (Section 2.2-2260 of the Code of Virginia), the Virginia Public Building Authority could be provided the statutory authority to also fund VLCF and PDR programs with bond proceeds.

According to the Trust for Public Land, 23 statewide bond referendums have passed in the

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PPTA Reform

Fix the Public Private Transportation Act

Statement of the Issue

There has been a dramatic increase in the number of projects proposed under the Virginia Public-Private Transportation Act of 1995 (PPTA), which allows private entities to enter into agreements with VDOT to construct, improve, maintain, and operate transportation facilities. Experience with PPTA projects and proposals thus far indicates that the statute is seriously flawed and raises serious doubts about how effectively it serves the public interest.

Background

The PPTA is designed to facilitate private investment in public infrastructure and transportation facilities. It allows both solicited and unsolicited proposals, and is viewed by its supporters as a way to make needed improvements and additions to the state transportation system sooner, more cheaply, and more efficiently than with public funds alone. Projects undertaken so far under the PPTA or its predecessor include the Dulles Greenway and Route 28 interchanges in Northern Virginia, the Pocahontas Parkway (Route 895) in Richmond; and Route 288 in Richmond. There are numerous additional PPTA proposals currently

under consideration by VDOT.

The track record of PPTA projects thus far calls into question the claims made in support of the statute. Among other things, potential costs and liabilities to taxpayers have often been underestimated or not provided to the public. Under the agreement for the widening of the Capitol Beltway, for example, state

taxpayers will have to pay an undisclosed amount to the project developer if carpooling and transit use of the new High Occupancy Toll lanes rise above a certain level. This is in addition to the \$409 million taxpayers are investing in the project that was originally projected to



cost taxpayers little or nothing. In addition, in the past, the bonds for the Pocahontas Parkway were downgraded and placed on a watch list by credit agencies because traffic and toll revenues were lower than expected.

Although the PPTA could be an innovative tool for getting transportation projects funded and built, there are many apparent problems with the Act, including concerns that:

- It undermines sound transportation planning by advancing projects that are not high priorities for the public, moving proposed projects to the head of the list of projects un-

Recommendations

Support PPTA reform. Legislation to improve the PPTA should be supported. Potential measures include:

- Requiring greater public input into each proposal (such as traditional public hearings at an early stage of review and a public hearing before an agreement is signed).
- Requiring approval of PPTA proposals by the Commonwealth Transportation Board (CTB).
- Limiting proposals under the PPTA to projects contained in state transportation plans and to projects with complete environmental studies.
- Redefining the process to ensure that bidding is competitive, including adding requirements for national and international advertising and a longer response period.
- Giving priority to proposals that include significant private sector equity contributions.
- Requiring evaluation of the impacts of any proposed project on land development patterns.

Oppose additional taxpayer funding until the PPTA is reformed. The General Assembly created the Transportation Partnership Opportunity Fund to support PPTA projects. No additional money should be placed into this fund until the PPTA is reformed.

der consideration and making a claim on state revenues at the expense of other projects.

- Opportunities for public input into the PPTA process are limited.
- The PPTA process could circumvent or undermine environmental review of proposals as a result of the time tables for decisions under the PPTA and the selection of a proposal before it has been studied or alternatives evaluated.
- Requirements for competitive bidding are inadequate and have allowed, in the first phase of a proposal, a project proponent or bidder to establish a sole-source arrangement for later phases.
- Applicants have failed to disclose all necessary information about costs and design.
- There has been a lack of information about potential costs to taxpayers and potential risk to the state's bond rating.
- It creates incentives for sprawl, driving,

and environmental damage. The primary concern of PPTA developers is maximizing profit, not the public interest. For example, the previous owner of the Pocahontas Parkway supported a massive new development and an additional interchange that would increase the amount of traffic (and revenue) on the highway. Most PPTA projects built or proposed thus far have been highway construction that will subsidize sprawl and increase motor vehicle dependence, destroying open space and increasing air and water pollution.

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Smart Growth

Better Land Use, Better Communities

Statement of the Issue

Virginia is grappling with rapid, sprawling development that spreads farther and farther from existing communities, consuming more land than ever before. This type of development is costly to taxpayers and is leading to rapid loss of rural lands, loss of natural, historic, and cultural resources, harmful pollution, and a deteriorating quality of life for many Virginians. Moreover, this unchecked, uncoordinated development has contributed to a spike in energy use and global warming pollution. With high oil prices, the need to reduce greenhouse gas emissions, and reduced ability to fund new infrastructure, smarter growth becomes a public policy imperative.



tional cities, towns, and neighborhoods. Both the General Assembly and the Governor recognize this and in 2007 established a requirement for Urban Development Areas (UDAs) to focus growth in more compact, walkable communities. The Governor has also established a Sub-Cabinet on Community Investment to identify and target discretionary

state funds, such as economic development and transportation funds, to UDAs. These approaches will save taxpayers money, strengthen our communities, save energy, reduce traffic congestion, and protect our farmland, health, and environment.

During 2008 and 2009, the Joint Subcommittee Studying Development and Land Use Tools will analyze how to strengthen and implement UDAs. There is the potential for a new partnership between state and local governments to better manage and direct growth in Virginia.

Background

We don't have to choose between courting growth and curbing sprawl. A summary of 40 years of fiscal impact studies showed that smart growth typically consumes 45% less land, costs 25% less for roads, 15% less for utilities, 5% less for housing, and costs 2% less for other fiscal impacts than does sprawling development. The bottom line is that it is more expensive and damaging to provide infrastructure for spread-out development than for more compact and tradi-

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Recommendations

Develop realistic comprehensive plans and strengthen the UDA requirement. Virginia Conservation Network partners have submitted a range of recommendations to the Joint Subcommittee Studying Development and Land Use Tools (SJ 70; HJ 178—2008), including the following:

- Require that local governments estimate and report to the state their projected population and employment growth and buildout under existing comprehensive plans and zoning for residential units and commercial square footage;
- Develop estimates of long-term infrastructure costs under current buildout projections and estimated costs under alternative growth scenarios;
- Strengthen implementation of UDAs through cooperation with nearby towns and cities, requiring interconnected street grids and new urbanist designs;
- Create incentives to implement UDAs by prioritizing state infrastructure funds to UDAs including economic development, transit/bike/pedestrian investments, schools and water/sewer; and
- Provide state technical assistance for buildout analyses and UDA implementation.

Ensure new development pays a fair share of the costs of infrastructure. During the 2008 General Assembly session, homebuilders sought to significantly reduce, if not eliminate, contributions to the cost of infrastructure through proffers or impact fees. VCN urges careful deliberation before repeal of the proffer system. Though not without its problems, the system has successfully encouraged investment in a range of community benefits and was the product of negotiations between developers and local governments following a period of intense land use controversies. A fair balance must be struck between what taxpayers and private developers pay toward the cost of infrastructure necessitated by new development. Impact fees must not be limited to education, roads, and public safety but should also cover a range of other community service such as parks and open space, water quality and water supply protections, libraries and other civic institutions. Finally, any system should be constructed so that it creates the incentive to develop within urban development areas, and not outside UDAs.

Oppose any efforts to weaken local control over the placement of telecommunications facilities, windmills, railroad facilities, power lines and other utilities. Such control enables local governments to lessen the negative impact of these structures on communities. The state should require comprehensive environmental and alternative studies of need and location, consultation with local governments and the public, and context sensitive design approaches.

Support state action that allows cities and towns to revitalize urban and older suburban areas. Some states allow cities to apply a lower tax rate on buildings than on the underlying land. This stimulates investment because it reduces the property owner's tax liability on improvements. By removing a tax disincentive, it encourages investment where infrastructure exists. The Virginia Attorney General found this tax policy to be constitutional but only the City of Fairfax has been granted this authority.

Require comprehensive plans to estimate carbon dioxide (CO₂) emissions and energy consumption from buildings and transportation, and take steps to reduce emissions. The Virginia Energy Plan shows the need for green buildings and changes in land use to reduce energy use. Buildings and transportation account for about 80% of total energy use and CO₂ emissions. The Urban Land Institute/ Smart Growth America report "Growing Cooler" (documents how key changes in land development patterns could help cut vehicle greenhouse gas emissions.

State Rail Investments

Appropriate Funding for Passenger Rail transportation

Statement of the Issue

Rising energy prices have imposed significant costs on drivers and shippers and resulted in a large drop in vehicle miles traveled, a huge increase in rail and transit passengers, and strain on the nation's underfunded passenger rail and transit systems. Rail and transit—two of our most energy-efficient transportation modes—are neither funded nor designed to handle expected major shifts in passengers and freight from our highways nor even to maintain existing market share as Virginia's population increases a projected 30% to 9.8 million by 2030. The recent State Rail Plan is a positive initiative but is too limited in scope and time-frame. We need a bolder 21st century vision for rail in Virginia. Without reordering its transportation investment priorities, the Commonwealth will be less energy efficient and risk its economic vitality, competitiveness, and quality of life.

Background

Freight rail typically uses roughly 1/3 the energy of highway trucks per transported ton-mile, and passenger trains are 17% more effi-

cient than automobiles per passenger-mile and provide critical support for more efficient communities. Unfortunately, until very recently there had been little overall private or public investment in our rail system since the end of World War II compared to investment in the Interstate Highway System. Battered by intense new competition, the privately

owned freight railroads shrank their network in the era of highway building, leaving just enough track capacity to serve mainly shippers of trainload bulk commodities. Recently, as the Interstate Highway System has become increasingly congested and freight

shippers have reconsidered rail, this limited track capacity has generated premium rates and enabled railroads to significantly improve earnings. The railroads have experienced a boom in bulk commodity shipments, including coal, and have been expanding their intermodal shipments. Heavy freight volumes have resulted in abysmal on-time performance for intercity and commuter rail which in most cases must use the same track. The railroads' primary obligation has been to their shareholders and not toward supporting expansion of passen-



Recommendations

- 1. Virginia should affirm rails key role in 21st century transportation and begin planning accordingly.** The state should adopting the following principle: “Rail’s 21st century role is to provide increased time-sensitive freight and passenger capacity in a way that maximizes quality of life, the environment, and energy efficiency; reduces road traffic and emissions; and maximizes the competitiveness of Virginia’s economy. Significant shifts in existing and future public funding should be made to transit and rail investments in Virginia.”
- 2. Federal, state, local and private investment in Virginia’s rail infrastructure should be a top transportation priority for the state.** The goal of joint investments in a public-private framework should be to maximize high level-of-service opportunities to the benefit of all users. New funding sources and planning practices—both public and private—need to be assembled on a scale large enough to support both a significant shift of freight from trucks to rail and introduction and expansion of passenger rail service in Virginia with connections to neighboring states. The scope of the State Rail Plan and the Rail Enhancement Fund need to be significantly broadened to provide expanded passenger rail services, to mitigate unavoidable local community and environmental impacts created by expanded service, and to provide a Virginia match for leveraging federal rail and transit funding. And major public rail investment should be tied to a clear determination about when the public should invest in the private rail sector, what constitutes a public benefit, and whether the public benefits exceed public costs.
- 3. Proposed rail expansion projects must use context sensitive solutions** which involve extensive public involvement, careful analysis of impacts, consideration of alternatives and appropriate design.
- 4. Increase the power and authority of the Rail Advisory Board or establish an independent statewide Rail Authority** to oversee expansion of freight and passenger rail, and to ensure public benefits, public input, and public accountability. They should be empowered to engage in a wide-ranging and inclusive planning process.

ger rail service on their tracks. At the same time, the federal and state governments have not made adequate public investment in intercity rail and commuter rail. Recent initiatives in Virginia including the joint state/railroad investment in the Heartland Corridor and the state investment in the I-95 rail corridor show the potential for improvements to both freight and passenger rail service, but the Rail Enhancement Fund (REF) in its current configuration and the recently proposed State Rail Plan

lack adequate funding and the longer term vision and projects we need.

Recent research shows that the greatest energy savings in the transportation sector are achieved by diverting mid- and long-range truck shipments to intermodal rail. While there are huge public benefits from growing market share for intermodal freight, many Virginians are more focused on achieving new and expanded passenger rail service. Fortunately for all would-be rail users, a study

conducted for Virginia in 2003 by Reebie Associates revealed that rail infrastructure improvements that divert maximum trucks to trains are mutually conducive to serving auto-competitive passenger trains. Reebie recommended:

- Double track
- Reduced curvature
- Bi-directional train control signaling
- Frequent crossovers
- Regional IMX (intermodal) terminals

Among other alternatives that could be considered would be the double-stacking of intermodal trains. The infrastructure just described is not true high-speed rail. Rather, it is high-capacity/average-speed rail that meets the Reebie study's specifications for maximum freight diversion through passenger-train-like *average* speeds (60 MPH), high frequencies serving multiple market pairs, and truck-like reliability. The result would be significant diversion of trucks from crowded highways like I-95 and I-81 to rail and new and expanded passenger rail service beginning with the I-95 urban crescent corridor, followed by routes to southwestern Virginia and North Carolina.

Virginia has four major corridors that are candidates for upgrades into higher-performance interstate rail corridors:

1. The Urban Crescent Corridor, parallel to I-95 through Virginia, with eastern branches from Richmond and Petersburg to Newport News and to Norfolk;

Rail's 21st century role is to provide increased time-sensitive freight and passenger capacity in a way that maximizes quality of life

2. The Piedmont Corridor (once proper zoning is in place to discourage sprawl) from Alexandria to Danville, parallel to US-29 and continues out-of-state to Atlanta, parallel to I-40 and I-85;
3. The Heartland Corridor, specifically that Virginia portion parallel to US-460 between Blacksburg and Norfolk, and which overlaps the Urban Crescent leg between Petersburg and Norfolk; and
4. The I-81 Corridor rail line.

Because these proposed rail expansion projects would have an impact on local communities, conserved land, historic sites and natural resources, it is essential that the state and federal government require context sensitive solutions involving good public process, careful analysis of impacts, consideration of alternatives and appropriate design. The Commonwealth should make funds available through the Rail Enhancement Fund to mitigate harmful impacts that cannot be avoided.

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Transportation Funding

Reforming VDOT

Statement of the Issue

Elected officials acknowledge the need to reform VDOT and to better link land use and transportation to reduce the rising costs of transportation and to provide more transportation options. Yet VDOT continues to pursue an outdated approach that focuses on road construction as the solution to virtually every transportation problem and has not changed its planning to account for land use impacts and alternatives. This approach is costly to taxpayers, increases energy dependence, destroys natural and rural areas, spurs sprawl, increases air and water pollution, contributes to global climate change, and limits transportation choices, while doing little to relieve congestion in the long run.



gridlock and air pollution are getting worse, many existing roads and bridges are in poor condition, and transportation and land use decisions are rarely coordinated. Transportation is also the leading and fastest rising source of carbon dioxide emissions in the state.

Despite recent and projected reductions due to the current budget crisis, Virginia will spend billions of taxpayers' dollars on transportation this year, and the transportation budget continues to focus overwhelmingly on roads. A national study identified more wasteful and destructive highway proposals in Vir-

ginia than in any other state.¹ Evidence indicates that new and wider highways generate significant new traffic without providing long-term congestion relief because they cause development to spread out and the amount of driving to increase. Despite significant congestion within the metropolitan areas of the state, VDOT is advancing major rural highways and bypasses that divert scarce resources, increase sprawl, and fail to target areas of greatest need. In addition, VDOT's focus on privatizing highways and tolls is

Background

Transportation has been a central issue in the past several General Assembly sessions, and some important provisions have been adopted that better link transportation and land use planning. However, our transportation challenges continue to increase. Gas prices are volatile and reached record levels in 2008,

Recommendations

Support a more balanced transportation system. Any legislation or budget provision that provides or relates to transportation funding should advance four key goals:

- 1 • First, use our resources more efficiently by focusing on repairing our existing transportation system before spending billions of dollars on new roads, and on improving local street networks.
- 2 • Second, shift funding to alternatives to driving, such as public transit, passenger and freight rail, transit-oriented development, walking, and bicycling. Freight and passenger rail investments in the I-95, I-81, and I-64 corridors should be a particularly high priority. At least 50 percent of any new state or regional funding should go to these alternatives, which are cheaper and can reduce congestion, energy consumption, and pollution; moreover, several provide better services for elderly, disabled, and low income citizens.
- 3 • Third, tie transportation funding to measurable performance criteria, such as reduced air pollution from vehicles and reduced per capita vehicle miles traveled.
- 4 • Fourth, transportation funding allocation formulas need to be changed from a single statewide formula in order to give regions (e.g. MPOs, VDOT planning districts, commissions, etc.) flexibility to determine the funding levels for various transportation modes – above certain minimum levels – that best meet their needs.

Support enhanced funding and accountability for rail projects. Additional state funding for freight and passenger rail projects is needed to provide more transportation choices, reduce congestion, and cut energy consumption and pollution, and greater efforts are needed to ensure that public funds spent on rail projects adequately benefit the public. A state rail authority should be created, or the Rail Advisory Board's authority should be expanded, to ensure that the public interest is protected in rail infrastructure improvements, including targeting spending to projects that offer the greatest public benefit, improving public input into funding decisions, and increasing public access to natural resources.

Support transportation process reform. There have been numerous efforts in recent sessions to reform various aspects of state transportation planning. Any action that will reduce the environmental impacts of transportation projects, enhance public involvement in planning, improve the Public Private Transportation Act,² or seriously reform VDOT planning and CTB oversight should be supported.

Support Stronger Performance Standards for Transportation Planning. Expand requirements for the development of performance standards and require VDOT and large metropolitan areas to meet measures that include reduction in per capita vehicle miles traveled and increased mode share for transit, carpooling, walking, bicycling and telecommuting.

Support improving the link between transportation and land use policies, and providing incentives for smarter growth. Potential measures include requiring an assessment of the land use impacts of major transportation projects, targeting transportation spending to existing communities and areas of congestion, tying transportation funding to land use changes that reduce travel demand, targeting economic development assistance to existing communities and locations with adequate pre-existing transportation infrastructure, working with localities to conduct build-out analyses of their land use plans, and providing technical assistance to localities to promote transit-oriented development.

Despite significant congestion within metropolitan areas , VDOT is advancing major rural highways and bypasses that divert scarce resources, increase sprawl, and fail to target areas of greatest need.

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limiting input by the public and by public officials, undermining environmental review, slighting transit, and leading to unneeded projects and speculative development.

Governor Kaine, Speaker Howell, and General Assembly members of both parties have recognized the need to reform VDOT and to improve our transportation policies. Some positive steps have been taken, such as increased funding for transit and rail, requiring traffic impact studies of major land use proposals, and requiring improved access management policies. But these are relatively minor steps in light of the magnitude of the problems we face, and any benefits they produce will be more than outweighed by proposed new highway projects.

¹ Taxpayers for Common Sense and Friends of the Earth, *Road to Ruin* (2004).

² See accompanying white paper on the Public Private Transportation Act.

Agricultural BMPs

Healthy Farms, Healthy Rivers

Statement of the Issue

As part of the regional Chesapeake 2000 Agreement, Virginia committed to reduce nutrient pollution going into the Chesapeake Bay sufficiently to remove the Bay and its tidal tributaries from the federal list of impaired waters by 2010. To achieve this goal, Virginia must reduce the amount of excess nitrogen going into the Bay watershed by 27 million pounds annually from point sources (municipal and industrial wastewater treatment facilities) and nonpoint sources (runoff from land).

Farm runoff contributes nearly a third of the excess nitrogen and phosphorus pollution to Virginia rivers and the Bay. Fortunately, proven conservation techniques, also called best management practices (BMPs), can prevent this runoff from leaving fields and entering surface and ground waters. The state has identified five priority practices that could achieve nearly 60% of the needed runoff reductions at approximately 4% of restoration costs.

Though many Virginia farmers use BMPs, the sometimes substantial cost of implementing them is a major barrier to widespread use. State and federal cost-share programs exist to help farmers pay for conservation practices, but historically such programs have been significantly under-funded. Every year, many Virginia farmers who apply to participate in state cost-share programs are turned away because of a shortage of funds.

Background

Virginia in recent years has made great strides toward reducing point source nutrient pollution by developing regulatory programs and providing more than \$500 million to upgrade local wastewater treatment plants. These actions should reduce nitrogen pollution by 7 million pounds annually. However, to achieve the 2010 water quality goals and remove the Bay from the

list, great effort also is needed to reduce non-point sources of excess nitrogen, especially runoff from farmland. Agricultural runoff accounts for much of the nutrient excess entering Virginia's rivers and the Chesapeake Bay (approximately 31% of the nitrogen and 36% of Virginia's phosphorus load). Farm BMPs, can prevent nitrogen and

phosphorus from reaching surface and ground waters. The Virginia Department of Conservation and Recreation has identified five priority practices that, if used on farms throughout Virginia's part of the Bay watershed, could achieve nearly 60% of the needed runoff reductions at only approximately 4% of the costs. These priority BMPs are nutrient management plans, forest and grass riparian buffers, stream bank fencing to block livestock access, cover crops, and continuous no-till.

Across the Commonwealth, farmers actively seek to adopt these best management practices, and many have already done so. However, installation and technical assistance costs are major



Recommendations

The Commonwealth should make a strong financial commitment to the state's water quality goals and to the farming community: an annual installment of \$100 million per year over the next ten years, deposited into the Natural Resources Commitment Fund (within the Water Quality Improvement Fund) for best management practices and technical assistance. Distributed 60 percent to the Chesapeake Bay watershed and 40 percent to the remainder of the state's watersheds, this investment will achieve significant improvements in water quality for Virginia's local streams and creeks, the Chesapeake Bay, and Virginia's Southern Rivers. Dedicating an annual installment of one-tenth of 1 cent of the state sales tax over the next ten years to fund this commitment is an example of how this revenue could be raised.

The 2009 fiscal year budget includes \$20 million for the Natural Resources Commitment Fund; those resources should be maintained. The 2010 fiscal year budget should include \$38 million for agricultural practices so additional water quality benefits can be realized.

The future of agriculture in this region and the future of Virginia and the Chesapeake Bay are inextricably linked. We cannot afford to continue to turn away or discourage farmers from being good stewards of their land and the Commonwealth's waters. If we provide this much needed help, farmers can help us all restore our rivers, streams, and estuaries.

“Last year, one of every three Virginia farmers applying for cost-share was turned away because of a lack of funds.”

barriers. Unlike other regions of the country dominated by large agricultural production operations, the average Virginia farm size is 181 acres, and the average annual farm income is about \$49,000 per year. Given the inherent risks associated with farming (weather, commodity prices, etc.), farmers do not always have a predictable income; one year's profits may cover future years when the farm operates at a loss.

State and federal cost-share programs that help farmers pay for conservation practices have been significantly under-funded. For example, one of every three Virginia farmers applying for state and federal cost-share are turned away because of a lack of funds. Widespread awareness of this significant state fund-

ing shortfall discourages many farmers from applying for cost-share assistance.

Currently state cost-share programs are funded only when there is a state budget surplus. But farmers are expected to protect water quality in good budget years as well as bad, and Virginians need clean water every day. Therefore, state cost-share programs, which generally repay a portion of a farmers' out-of-pocket expenses for conservation BMPs, should be consistently and adequately funded from year to year.

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Public Access to Resources

The need for freight rail cooperation

Statement of the Issue

Virginians are fortunate to have some of the finest natural resources in the U.S., including thousands of miles of streams, rivers and trails. This includes many rivers that are fishable and boatable, and many trails that are used for hiking, biking and horseback riding.

Unfortunately, as citizens attempt to access some of our Commonwealth's resources, many have encountered major obstacles created by railroad company policies, which call for no new crossings for access and no multi-modal use of railroad right-of-ways. Such rail policies are often counter to the public interest, especially at a time when our population is growing and resources are not. The impacts of railroads are extensive. For example, a river may often have railroad tracks blocking access along both sides for hundreds of miles.

The railroads have often been in conflict with the Commonwealth and have not assisted state officials in developing a process to evaluate recreational access requests and analyze their viability.

Background

In an effort to address the access issue, the Commonwealth of Virginia, through the offices

of the Department of Conservation and Recreation (DCR) initiated in 2004 discussions and negotiations with the railroads to develop a process for accommodating recreational crossings of railroad tracks. These crossings would be used to access trails or rivers, and to expand opportunities for rails-to-trails or rails-with-trails. The railroads have not been cooperative with DCR.



Additional discussions with the railroads have been handled by the Department of Rail and Public Transportation (DRPT). No status report from the director of DRPT on the progress has ever been produced on any negotiations with the railroads. The DRPT should provide such a report. Again,

our understanding is that the railroads have not been cooperative with DRPT.

Railroads have raised the issue of liability as an excuse to oppose pedestrian rail crossings, but it is the assessment of the Attorney General's office that they are not subject to liability, because a 1994 law (Va. 29.1-509) addressed this very issue. Simply put, the law states that if the railroads grant a public access crossing railroad tracks, they are no longer liable. On the other hand, if they do not grant a public access, then they remain liable.

Examples of opportunities for public access

Recommendations

Because the policies of the two major freight railroads are generally in conflict with the public interest regarding access to our natural resources:

- 1. We urge the Governor, Secretary of Natural Resources and Secretary of Transportation to strengthen their efforts to ensure greater public access across railroad tracks to our state's natural resources, particularly given increasing public investment in freight rail.**
- 2. We also urge the Commonwealth to pass legislation to ensure greater cooperation between the railroads and the Commonwealth with regard to public interest.** This could be accomplished by strengthening the Virginia Rail Advisory Board, or by creating a Virginia Rail Authority, with the authority to require expanded public access across railroad tracks in partial consideration for taxpayer funding. Such an authority would be similar in purpose and construction to the Virginia Port Authority or Virginia Airport Authority. Its basic purpose would be to ensure that the public interest is protected in rail infrastructure improvements by being responsible for planning and facilitating such improvements, and by assisting in financing such improvements. In doing so, it would be in a position to provide guidance on issues to the railroads and to seek reasonable public benefits including public access.

Without greater cooperation from the railroads, tax dollars may not be allocated wisely in the public interest. Without greater access to and use of our rivers, streams and trails, the public will not be able to use our natural resources or be aware of issues affecting them. It is the use of our resources by boaters, fishermen, bird watchers, bikers, hikers and many others that allows us to appreciate and keeps us informed of the incalculable value of our natural resources.

without liability to the railroads exist throughout Virginia. One example, the Cushaw Project on the James River, is an effort to get an official, legal crossing from the railroads to replace several illegal crossings that are heavily used today. By designating a crossing, the railroads would no longer be liable, yet the railroads persist in raising liability as an obstacle to public access.

At the same time, the Commonwealth of Virginia in 2008 appropriated \$40 million to assist with railroad infrastructure improvements in Virginia for the Manassas to Front Royal line. In 2009, the Commonwealth will give another \$40 million to Norfolk Southern for

the inter-modal rail center near Roanoke. Considering the economic support given to the railroads by the Commonwealth from the taxes of its citizens, some reciprocity of support should be given to the Commonwealth and its citizens by the railroads regarding access issues.

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Bipartisan Redistricting

Ensure Integrity in the Process

Statement of the issue

A surge of interest has developed across Virginia regarding the redistricting process which will follow the 2010 U.S. Census. The current system for drawing legislative district lines promotes “partisan redistricting” which gives the party controlling the General Assembly the power to decide how districts get carved up. This system has taken decision making out of the hands of voters and resulted in the extreme partisanship and gridlock that have prevented real progress on issues like renewable energy, land use and climate change, among many others. Shifting responsibility for redistricting to a bipartisan commission will increase electoral competition, increase responsiveness to conservation issues and spur the policy innovation that is so desperately needed in Virginia.

Background

Every decade, Virginia legislators convene to redraw the lines of our state’s electoral districts. Traditionally, whoever has been in control of the General Assembly has dictated and controlled the process and drawn lines

favorable to their own party. With the advent of powerful mapping technologies, these delegates and senators can now use computers to draw preferential, gerrymandered, or “safe,” districts to a degree never before seen (only 17 of 140 seats saw competitive elections in 2007). Allowing representatives to determine whom they represent inverts the very purpose

of democratic voting. Districts drawn according to political affiliations typically cut through geographic features, dividing communities and representational interests. By drawing “party stronghold” districts, real electoral decisions are moved from general elections to primaries, where as few as 1 percent of eligible voters decide who wins.



“Because of] gerrymandered, or ‘safe’ districts . . . only 17 of 140 seats saw competitive elections in 2007.”

Seven states have placed redistricting in the hands of non-partisan commissions in an effort to strengthen the integrity of their political process. In Iowa such commissions

Recommendations

Within the umbrella of an independent commission, there are a variety of policy options available. While obviously a successful bill is more important than any particular suggestion, we recommend the following:

1. Create a bipartisan commission to design and draw up new district maps.

By creating a balanced group of appointees, who then select an apolitical member to lead them, a sense of political equality is introduced to the redistricting process.

2. Districts should reflect our communities.

The commission should redraw district boundaries with the express intent of making districts compact, keeping communities together, and increasing competition in elections, while avoiding the creation of artificially competitive districts.

3. Allow public submissions and input into the design process.

With the proliferation of cheap mapping technologies, the public now has the capability to create maps just as effectively as the General Assembly. By allowing and encouraging their input, a greater sense of fairness and accountability is instilled into the bipartisan commission. Furthermore, this allows public support to coalesce around certain map proposals, resulting in greater civic participation by the citizenry and a greater awareness of what has long been considered an arcane and highly technical process.

4. Preserves the General Assembly's traditional role.

The maps proposed by the commission would go back to the General Assembly for final approval, maintaining a level of accountability.

pass committee-designed maps without much deliberation, signaling broad approval of the process, and further bolstering public confidence in the system. To remedy these issues in Virginia, the General Assembly should create non-partisan redistricting.

In 2008, the Virginia Redistricting Coalition brought together faith, business, and civic organizations to promote reform of Virginia's redistricting process. Political momentum grew tremendously, gaining the support of Governor Kaine, Lt. Governor Bolling, several former Governors, the majority of the

State Senate, and many community leaders. The coalition will build on this momentum in 2009.

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